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MCRC-32697-2022

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE RAJESH KUMAR GUPTA

ON THE 9th OF APRIL, 2026MISC. CRIMINAL CASE No. 32697 of 2022*VINAY BHADAURIA**Versus**INSOLVENCY AND BANKRUPTCY BOARD OF INDIA THROUGH
SUNIL KUMAR*

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Appearance:

Shri Praveen Surange - Advocate for the petitioner.

Shri Ram Pathak- Advocate for respondent.

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ORDER

The present petition has been filed under Section 482 of the Cr.P.c. for quashing of the complaint dated 05.01.2021 under Section 236 for the offence under Sections 19, 68, 69, 70, 74(1) and 235A of the Insolvency and Bankruptcy Code, 2016 read with Sections 190, 193 and 200 of the Cr.P.C. registered with case No.SC/38/2021 before the Court of IX Additional District and Sessions Judge, Gwalior.

2. Learned counsel for the complainant submitted that a complaint was filed by the complainant/respondent against the accused/petitioners under Section 236 for offences under Sections 19, 68, 69, 70, 74(1) and 235A of the Insolvency and Bankruptcy Code, 2016 read with sections 190, 193, and 200 of the Code of Criminal Procedure, 1973 which was registered as case no.SC/38/2021 before learned Court of IX Additional District and Session Judge, Gwalior. The complaint is sub-judice before the Court of IX



Additional District and Session Judge, Gwalior. Subsequent to the filing of complaint by the complainant/respondent, summons vide dated 27.09.2021 were issued against both the accused/petitioners. But, proper procedure as prescribed as per the provisions of Code of Criminal Procedure, 1973 was not followed while issuing summons to the accused/petitioners. It is clear from the bare perusal of Section 204(3) of the Code of Criminal Procedure Code, 1973 that every summons or warrant issued under Sub-section (1) of the said section shall be accompanied by a copy of the complaint. However, the complainant/respondent has not been served a copy of the complaint along with the Summons to the accused/petitioners.

3. It is further argued that the Trial Court vide order dated 05.01.2021 (Annexure P-3) has taken cognizance of the complaint in a wholly mechanical manner, without application of judicial mind and without passing a reasoned or speaking order, thereby vitiating the entire proceedings at the threshold. He relied on the judgement passed by the Hon'ble Apex Court in the case of *Pradeep S. Wodeyar Vs. State of Karnataka 2021 SCC OnLine SC 1140*. The Petitioners had specifically raised a preliminary objection regarding lack of territorial jurisdiction before the Trial Court. However, the said objection was outrightly rejected vide impugned order dated 04.05.2022 (Annexure P-1) without proper appreciation of statutory provisions and settled law, rendering the order arbitrary and unsustainable.

4. Learned counsel for petitioner submitted that the complaint was filed under section 236 of the Insolvency and Bankruptcy Code (hereinafter referred as IBC). Sections 236(1) and 236(2) of the IBC expressly provide as



under:

"(1) Notwithstanding anything in the Code of Criminal Procedure, 1973 (2 of 1974), offences under of this Code shall be tried by the Special Court established under Chapter XXVIII of the Companies Act, 2013 (18 of 2013)"

"(2) No Court shall take cognizance of any offence punishable under this Act, save on a complaint made by the Board or the Central Government or any persons authorised by the Central Government in this behalf."

5. Section 436(1)(a) of Chapter XXVIII of the Companies Act, 2013

reads as under:

"436. Offences triable by Special Courts (1)
Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),-
(a) all offences specified under sub-section (1) of section 435 shall be triable only by the Special Court established for the area in which the registered office of the company in relation to which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned;"

6. From the bare reading of section 436 it is clear that offences shall be triable only by the Special Court established under section 435 having territorial jurisdiction where the registered office of the company is situated.

It relevant to refer the Annexure D-1, wherein it is clear that as per notification dated 18.05.2016 wherein at S. No. 6 of the list, L.d. IX Additional District & Sessions Judge, Gwalior is having jurisdiction only with respect to State of Madhya Pradesh. While the registered office of the company against which the complaint is relates is admittedly situated at New Delhi. Therefore, Trial Court lacked inherent jurisdiction to take cognizance of the complaint.

7. The complainant/respondent himself admitted that the registered



office of the company is situated at New Delhi. Then, it is relevant here to have perusal of the Section 60 (1) of the IBC, 2016 2013, and the same is reproduced herein for ready reference-

60. Adjudicating Authority for corporate persons.-(1) The Adjudicating Authority, in relation to insolvency resolution and liquidation for corporate persons including corporate debtors and personal guarantors thereof shall be the National Company Law Tribunal having territorial jurisdiction over the place where the registered office of the corporate person is located."

8. It is also admitted by the complainant/respondent that the allegations arise out of alleged non-compliance of directions issued by the NCLT Principle Bench. As per the notification dated 01.06.2016, the NCLT Principle Bench is situated at New Delhi and exercises its jurisdiction over the Union Territory of Delhi, State of Haryana and State of Rajasthan.

9. Vide notification dated 27.07.2016 issued by the Ministry of Corporate Affairs, the Court of Additional Sessions Judge-03. South-West District, Dwarka, New Delhi has been designated as the Special Court under Section 435 of the Companies Act for the NCT of Delhi. Therefore the entire cause of action has arisen within the territorial jurisdiction of New Delhi. And, only the said Special Court at New Delhi has the jurisdiction to try the alleged offences under the IBC and LD. Special Court at Gwalior has no territorial jurisdiction to take cognizance of the complaint.

10. The assumption of jurisdiction by the Ld. Trial Court is ex facie illegal. being contrary to the mandatory statutory scheme. The entire proceedings, including the order taking cognizance and subsequent orders, are thus without jurisdiction and liable to be quashed. Hence, this petition be



allowed and the order of the court below be set aside.

11. On the contrary, learned counsel for respondent/Board/complainant submitted that all the alleged offences were committed sitting at the place which falls within the jurisdiction of Special Court Gwalior. The suspended directors, being residents of Gwalior, have failed to extend cooperation and have committed acts of non-compliance and other related contraventions within the jurisdiction of Gwalior. The said acts constitute continuing defaults, as the non-cooperation persists over time. In this regard, as per Section 177 of the Code of Criminal Procedure, 1973, every offence shall ordinarily be inquired into and tried by a court within whose local jurisdiction it was committed. He further argued that, Section 178 of the Code provides that in cases of continuing offences or where acts occur across multiple jurisdictions, the matter may be inquired into or tried by a court having jurisdiction over any such local area. He also submitted that under Section 179 of the Code, where an act constitutes an offence by reason of its consequences, the jurisdiction also lies where such consequences ensue. Therefore, in light of the residence of the suspended directors and the continuing nature and consequences of the contraventions, the courts at Gwalior have the appropriate jurisdiction to inquire into and try the present matter. The petitioners had not raised any issue regarding the jurisdiction before the lower court and in the present petition also not a single issue regarding the jurisdiction of Madhya Pradesh has been raised. Hence, this petition deserves to be dismissed.

12. Heard learned counsel for the parties and perused the record.



13. It is not in dispute that the registered office of the company in question is situated at New Delhi. It is also an admitted position that the allegations in the complaint arise out of alleged non-compliance of directions issued by the NCLT, Principal Bench, New Delhi.

14. As per the statutory scheme, particularly Section 60(1) of the IBC, the Adjudicating Authority in relation to insolvency resolution of corporate persons is the National Company Law Tribunal having territorial jurisdiction over the place where the registered office of the corporate person is located. Further, as per the notification issued by the Ministry of Corporate Affairs, the Special Court designated for the National Capital Territory of Delhi is the Court of Additional Sessions Judge, South-West District, Dwarka, New Delhi.

15. In view of the aforesaid statutory provisions, this Court finds that the jurisdiction to try offences under the IBC is specifically conferred upon the Special Court linked to the place where the registered office of the company is situated. The said provision overrides the general provisions of the Cr.P.C. relating to territorial jurisdiction.

16. The contention of the respondent that the cause of action has arisen at Gwalior on account of residence of the directors or alleged continuing defaults cannot be accepted in the present case, in light of the special statutory scheme governing trial of offences under the IBC, which clearly mandates jurisdiction based on the location of the registered office. Therefore, the assumption of jurisdiction by the Court of IX Additional District & Sessions Judge, Gwalior is found to be contrary to the statutory



mandate and cannot be sustained.

17. Consequently, the present petition is disposed of with a direction to the respondent/complainant/Board to file the complaint before the competent Special Court having jurisdiction at New Delhi/competent court having jurisdiction, in accordance with law. It is made clear that this Court has not expressed any opinion on the merits of the case and all issues are left open to be adjudicated by the competent court.

18. The concerned Special Court is directed to return the original copy of the complaint filed by the Board/complainant and relevant certified copies by replenishing it with photocopy of the same and respondent/complainant is directed to file the same before the competent court/special court having jurisdiction.

19. If the petitioner files such complaint before the competent/concerned court within a period of three months from the date of passing of this order, then the aforesaid Special/competent court is expected to ignore the point of limitation, if any.

20. With the aforesaid, this petition stands **disposed of**.

(RAJESH KUMAR GUPTA)
JUDGE